

United States Postal Service

§ 952.21

at his or her residence or principal office or place of business.

(6) *Verified return.* A verified return by the individual serving any such subpoena setting forth the manner of such service shall constitute proof of service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena, or a statement of service by registered or certified mail in the event that receipt of delivery is unavailable.

(g) *Contumacy or refusal to obey a subpoena.* In the case of refusal to obey a subpoena, the Judicial Officer may request the Attorney General to petition the district court for any district in which the person receiving the subpoena resides, is found, or conducts business (or in the case of a person outside the territorial jurisdiction of any district court, the district court for the District of Columbia) to issue an appropriate order for the enforcement of such subpoena. Any failure to obey such order of the court may be punishable as contempt.

§ 952.20 Witness fees.

The Postal Service does not pay fees and expenses for Respondent's witnesses or for depositions requested by Respondent, unless otherwise ordered by the presiding officer.

§ 952.21 Discovery.

(a) *Voluntary discovery.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the presiding officer may issue any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *Discovery disputes.* The parties are required to make a good faith effort to resolve objections to discovery requests informally. A party receiving an objection to a discovery request, or a party which believes that another party's response to a discovery request is incomplete or entirely absent, may file

a motion to compel a response, but such a motion must include a representation that the moving party has tried in good faith, prior to filing the motion, to resolve the matter informally. The motion to compel shall include a copy of each discovery request at issue and the response, if any.

(c) *Discovery limitations.* The presiding officer may limit the frequency or extent of use of discovery methods described in these rules. In doing so, generally the presiding officer will consider whether:

(1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(2) The party seeking discovery has had ample opportunity by discovery in the case to obtain the information sought; or

(3) The discovery is unduly burdensome and expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake.

(d) *Interrogatories.* At any time after service of the complaint, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection, the presiding officer will determine the extent to which the interrogatories will be permitted.

(e) *Requests for admission.* At any time after service of the complaint, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request may be ordered by the presiding officer as deemed admitted upon the failure of a party to respond timely and fully to the request for admissions.

(f) *Requests for production of documents.* At any time after service of the complaint, a party may serve on the other party written requests for the production, inspection, and copying of any documents, electronically stored information, or things, to be answered within 30 days. Upon timely objection, the presiding officer will determine the

extent to which the requests must be satisfied, and if the parties cannot themselves agree thereon, the presiding officer shall specify just terms and conditions for compliance.

(g) *Depositions.* Except as stated herein, depositions shall be conducted in accordance with Rule 30 of the Federal Rules of Civil Procedure.

(1) After a complaint has been filed and docketed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(2) The time, place, and manner of conducting depositions shall be as mutually agreed by the parties or, failing such agreement, and upon proper application, governed by order of the presiding officer.

(3) No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at or before such hearing. It will not ordinarily be received in evidence if the deponent is available to testify at the hearing, but the presiding officer may admit testimony taken by deposition in his or her discretion. A deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the written record in lieu of an oral hearing, the presiding officer may, in his or her discretion, receive depositions as evidence in supplementation of that record.

(4) Each party shall bear its own expenses associated with the taking of any deposition unless otherwise ordered by the presiding officer.

(h) *Sanctions.* If a party fails to appear for a deposition, after being served with a proper notice, or fails to serve answers or objections to interrogatories, requests for admissions, or requests for the production or inspection of documents, after proper service, the party seeking discovery may request

that the presiding officer impose appropriate orders. Failure of a party to comply with an order pursuant to this rule may result in the presiding officer's ruling that the disobedient party may not support or oppose designated charges or defenses or may not introduce designated matters in evidence. The presiding officer may also infer from the disobedient party's failure to comply with the order that the facts to which the order related would, if produced or admitted, be adverse to such party's interests. In the sole discretion of the presiding officer, failure of a party to comply with an order pursuant to this rule may result in the presiding officer's issuance of an order of default under § 952.11(c).

§ 952.22 Transcript.

(a) Hearings shall be reported and transcribed by a court reporter. Argument upon any matter may be excluded from the transcript by order of the presiding officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Postal Service and the reporter. Copies of parts of the official record including exhibits admitted into evidence, other than the transcript, may be obtained by Respondent from the Recorder upon the payment of reasonable copying charges. Items that cannot reasonably be photocopied may be photographed and furnished in that form.

(b) Changes in the official transcript may be ordered by the presiding officer only to correct errors affecting substance and then only in the manner herein provided. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he or she may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing of his or her concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence.